APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 72-2097

UNITED STATES OF AMERICA

v.

DOLORES IANNELLI, *Appellant*

(D.C. Crim. No. 71-62)

Appeal from the United States District Court for the Western District of Pennsylvania

Submitted Under Third Circuit Rule 12(6) June 11, 1973
Before GIBBONS and ROSENN, Circuit Judges

Appellant was indicted with several others for violation of 18 U.S.C. § 1955. At trial the jury could not agree on a verdict in her case and a mistrial was declared. At a new trial she was convicted. The first six points raised on appeal are identical with those raised in *United States* v. *Iannelli*, Nos. 72-1696-1703 (3d Cir. May 4, 1973) and are controlled by that decision. An additional ground is that the district court admitted in evidence duplicates of tape recording of telephone conversation without a proper foundation establishing their authenticity. The ruling, in the context of this record, was within the court's discretion. There was no abuse of discretion.

It is ORDERED and ADJUDGED that the judgment of the district court is affirmed.

By the Court,
/s/ JOHN J. GIBBONS
Circuit Judge

Attest
/s/ THOMAS F. QUINN
Thomas F. Quinn
Clerk

Dated: June 12, 1973

APPENDIX B

Statutes Involved

18 U.S.C. 2516 provide, in pertinent part:

> (1) The Attorney General, or any Assistant Attorney General specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications * * *.

18 U.S.C. 2518 provides in pertinent part:

> (1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:
>
> (a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;
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> * * * * * * * *
>
> (4) Each order authorizing or approving the interception of any wire or oral communication shall specify—
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> * * * * * * * *
>
> (d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and
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> * * * * * * * *
>
> (10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivi-

sion thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization or approval.

* * * * * * * *

18 U.S.C. provides, in pertinent part:

§ 1955. Prohibition of illegal gambling businesses

(a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

(b) As used in this section—

(1) "illegal gambling business" means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted;

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

(2) "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.